



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2018-0112; FRL-9997-29-Region 5]

**Air Plan Approval; Ohio; Removal of Obsolete Infectious Waste
Incinerator Regulations**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request submitted by the Ohio Environmental Protection Agency (Ohio EPA) on January 24, 2018, to revise the Ohio State Implementation Plan (SIP) under the Clean Air Act (CAA). Ohio EPA is requesting to remove provisions under Ohio Administrative Code (OAC) Chapter 3745-75, that were approved into the Ohio SIP as part of Ohio's Hospital/Medical/Infectious Waste Incinerator (HMIWI) State plan under sections 110(d) and 129 of the CAA. EPA proposed to approve the State's submittal on April 12, 2019.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0112. All documents in the docket are listed in the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other

information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR 18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)886-6061, acevedo.francisco@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we", "us" or "our" is used, we mean EPA.

I. What is being addressed by this document?

On September 15, 1997, EPA published emission guidelines for HMIWI under 40 CFR part 60, subpart Ce (62 FR 48348). The emission guidelines applied to existing sources only, for which construction commenced on or before June 20, 1996. States were required under sections 111(d) and 129 of the CAA to submit state plans to control emissions from existing HMIWI units. New sources constructed after this date are covered by a Federal new source performance standard.

On October 18, 2005, Ohio EPA submitted the CAA section 111(d)/129 State plan for implementing 40 CFR part 60, subpart Ce "Emission Guidelines for Existing Hospital/Medical/Infectious Waste Incinerators." The State plan was subsequently approved by EPA on July 5, 2007 (72 FR 36605) and became effective under 40 CFR 62.8880 on August 6, 2007. As part of Ohio's HMIWI State plan, OAC Chapter 3745-75, "Infectious Waste Incinerator Limitations," was amended, submitted, and approved as part of Ohio's SIP (72 FR 36605). Subsequently, on October 6, 2009 (74 FR 51367), and April 4, 2011 (76 FR 18407), EPA promulgated final revised emission guidelines and amendments under 40 CFR part 60, subpart Ce, and on May 13, 2013, EPA promulgated a final revised 40 CFR part 62, subpart HHH, Federal Plan (78 FR 28052).

On January 24, 2018, Ohio EPA submitted a request to approve the removal of all OAC Chapter 3745-75 provisions from the Ohio SIP, relying instead on the Federal Plan. Ohio EPA conducted a public hearing on this matter in Columbus, Ohio on December 7, 2017.

On April 12, 2019, at 84 FR 14901, EPA proposed to approve the removal of all OAC Chapter 3745-75 provisions from the Ohio SIP.

II. What comments did we receive on the proposed SIP revision?

Our April 12, 2019 proposed rule provided a 30-day review

and comment period. The comment period closed on May 13, 2019. EPA received one comment during the public comment period. The comment supported EPA's proposed action to allow the removal of Infectious Waste Incinerator provisions from the Ohio SIP.

III. What action is EPA taking?

EPA is approving the revision to the Ohio SIP submitted by the Ohio EPA on January 24, 2018, because the removal of existing infectious waste incinerator requirements in OAC Chapter 3745-75 from the SIP meets all applicable requirements and would not interfere with reasonable further progress or attainment of any of the national ambient air quality standards.

IV. Incorporation by Reference

In this document, EPA amends regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, EPA is removing provisions of the EPA-Approved Ohio Regulations from the Ohio SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make the SIP generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or

uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on

tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action

may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: July 17, 2019.

Cathy Stepp,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

§ 52.1870 [Amended]

2. In § 52.1870, the table in paragraph (c) is amended by removing the heading “Chapter 3745-75 Infectious Waste Incinerator Limitations” and the entries for 3745-75-01 through 3745-75-06.

[FR Doc. 2019-16080 Filed: 7/29/2019 8:45 am; Publication Date: 7/30/2019]